

Remarks

[0001] Herein, the "Action" or "Office Action" refers to the non-final Office Action dated October 16, 2008.

Examiner Interview of February 9, 2009

[0002] In an Examiner Interview of February 9, 2009, Applicant explained how the cited Kikinis reference (US 7,213,256) did not provide evidence sufficient to disclose the Boolean operators of, for example, dependent claim 14. Further, Applicant explained that a navigational axis may be independent of a future time. In such an example, it was explained that to actually play a program, the program should be available (e.g., an on-demand program or currently broadcast program). Yet further, Applicant described how navigation along a navigational axis (using, for example, a channel selector) could play television programs in a manner akin to the programs being on different channels.

[0003] For purposes of expediting prosecution, Applicant agreed to amend the pending independent claims. Such amendments aim to account for any issues that could have potentially been raised under 35 U.S.C. §101.

Claim Amendments and New Claims 40-44

[0004] Per this Amendment, claims 1-13, 15, 16, 18-21, 24, 25, 27-29, 31-33, 35-38 and 40-44 are pending. As indicated above, claims 14, 17, 22, 23, 26, 30, 34 and 39 are canceled, with various subject matter

being introduced into corresponding independent claims. As indicated above, claims 1, 3, 15, 16, 18, 24, 25, 27, 29, 31, 33, 35, 36 and 38 are currently amended and claims 40-44 are new. The new independent claim 40 is directed to a method, for example, where a conventional television channel change instruction causes navigation along generated a navigational axis.

[0005] While Applicant has specifically amended the claims to expedite prosecution, for at least the reason of amendment to the pending independent claims, Applicant submits that the rejections set forth in the Office Action of October 16, 2008 are overcome.

Substantive Claim Rejections

35 USC § 102 Claim Rejections

[0006] Claims 1-5, 8-20, 22-24 and 26-38 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,213,256 to Kikinis et al. (hereinafter, "Kikinis") (*Office Action*, p.3).

Summary of Kikinis

[0007] In the background section, Kikinis describes that a person viewing television will want to find additional instances of a particular show (*Kikinis*, Background). This may occur, for example, when the viewer tunes into a show towards its end, and then wants to see when the same show will air again (*Kikinis*, Background).

[0008] Kikinis describes that different stations often choose different abbreviations for the exact same show and that this variation in the abbreviations can complicate determining when the same show will air again (*Kikinis*, Background). Electronic Programming Guides (EPGs) typically only search for program data for exactly the same show, and as a result EPGs can miss other instances of the particular show which may have been abbreviated differently (*Kikinis*, Background).

[0009] To address such problems, Kikinis describes a method and apparatus for expanded search functionality in an electronic guide for television programs (*Kikinis*, Summary of the Invention). Rather than finding only exact matches for a particular show, the expanded search of Kikinis uses fuzzy logic to find near matches which are similar to the one currently displayed by the EPG (*Kikinis*, Summary of the Invention). It does this by using additional search elements based on the descriptive part of the EPG program data (*Kikinis*, Summary of the Invention).

[0010] By way of example, Kikinis describes that according to its method a viewer will first select a particular show (*e.g.*, "Cheers") (*Kikinis*, col.3 Ins.15-35, Figs.3a-c). Upon viewer selection of an expanded search function, the expanded search function pastes into the EPG search display the selected show name (*e.g.*, "Cheers") and its associated features, such as name or show title, directors, actors, etc. (*Kikinis*, col.3 Ins.15-35, Figs.3a-c). When the viewer actuates the expanded search function, a search is performed that has a broader scope than prior art searches which would only search for additional broadcasts of the exactly the same

show (*Kikinis*, col.3 Ins.15-35, Figs.3a-c). For example, according to the system described in *Kikinis*, when the search element "actors" is selected in the EPG search display for the selected "Cheers" show, the expanded search function will search for all shows having the same actors that were listed in the descriptive program data for the selected "Cheers" show (*Kikinis*, col.3 ln.60- col.4 ln.3, Figs.3a-c).

[0011] *Kikinis* describes that the expanded search function allows the viewer to effectively search for replacements of the selected show if the selected show itself is not available, or if the replacement, for example, has an earlier re-airing time than the show originally selected (*Kikinis*, col.3 Ins.48-52).

[0012] *Kikinis* describes that in one embodiment search elements may be combined for a complex search that may be further adjusted by a slider which permits the viewer to give additional weight to certain parameters, such as the actor's name versus the director's name, or the show genre versus the actor's name - so the search is weighted in favor of one search element over another (*Kikinis*, col.4 Ins.56-67).

Independent Claim 1

[0013] As currently amended, independent claim 1 recites, in part:

- generating at least one sequence of television programs associated with the identifiers for navigation wherein each of the at least one sequence comprises a corresponding navigational axis; and
- navigating the at least one sequence of television programs, wherein the navigating comprises using a multi-axis navigation

control to change from playing an on-demand program or a currently broadcast program in the at least one sequence to playing another on-demand program or another currently broadcast program in the at least one sequence.

[0014] Applicant also represents the “Boolean operators” of dependent claim 14 into claim 1. Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited “Boolean operators” or other subject matter of claim 1 as amended.

[0015] In order for Kikinis to anticipate claim 1, Applicant submits that Kikinis must disclose each and every element and feature of the claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Kikinis does not disclose all of the claimed elements and features of claim 1.

[0016] For example, Kikinis does not show or disclose a method comprising, “logically combining the navigation contexts which correspond to the selected at least two attributes using Boolean operators”, as recited in claim 1.

[0017] Instead, Kikinis describes that that in one embodiment search elements may be combined for a complex search that may be further adjusted by a slider which permits the viewer to give additional weight to certain parameters, such as the actor's name versus the director's name, or the show genre versus the actor's name - so the search is weighted in favor of one search element over another (*Kikinis*, col.4 lns.56-67). The Office appears to argue adjusting the slider described in Kikinis to give additional weight to certain parameters is the same as “logically combining

the navigation contexts which correspond to the selected attributes using Boolean operators”, as recited in claim 1 (Office Action, p. 5; *Kikinis*, col.4 lns.56-67).

[0018] Applicant submits that those skilled in the art know that there are five Boolean operators which can be used to manipulate True/False values, and that those skilled in the art can appreciate that using a slider to assign additional weight to certain parameters is very different than logically combining the navigation contexts using Boolean operators.

[0019] In short, *Kikinis* says nothing about “logically combining the navigation contexts which correspond to the selected attributes using Boolean operators”, as recited in claim 1.

[0020] Accordingly, claim 1 is allowable over *Kikinis* for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

Independent Claim 18

[0021] As currently amended, independent claim 18 recites in part:

when the query is launched, using the navigation control to access a television program associated with the list wherein the television program comprises a television program selected from a group consisting of on-demand television programs and currently broadcast television programs; and

playing the television program in response to the navigation control accessing the television program.

[0022] Applicant also amends claim 18 to recite "Boolean operators". Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited "Boolean operators" or other subject matter of claim 18 as amended.

Independent Claim 29

[0023] As currently amended, independent claim 29 recites in part:
a navigation control for navigating any one of multiple navigational axes to change from playing of a currently playing television program to playing of a television program provided by the server and for selecting links to launch predefined queries, wherein each predefined query queries a database based on television program attributes selected by a viewer and returns a navigation axis comprising a list of program identifiers of programs corresponding to a value for the television program attributes selected

[0024] Applicant also amends claim 29 to recite "Boolean operators". Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited "Boolean operators" or other subject matter of claim 29 as amended.

Independent Claim 33

[0025] As currently amended, independent claim 33 recites in part:
a navigation controller associated with the user interface to select the attributes launching the predefined queries, to navigate a navigational axis that is a list of identifiers of television programs and to play television programs corresponding to the identifiers on the list wherein the television programs comprise television programs selected from a group consisting of on-demand programs and currently broadcast programs.

[0026] Applicant also amends claim 33 to recite "Boolean operators". Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited "Boolean operators" or other subject matter of claim 33 as amended. Yet further, Applicant amends the preamble of claim 33 to recite: "A television navigation engine, executing on a computing device, the engine comprising".

Independent Claim 36

[0027] As currently amended, independent claim 36 recites in part:
wherein each list forms a navigational axis,
wherein each identifier in a list corresponds to either an on-demand or currently broadcast television program,
wherein the television programs on the list are played as accessed by a television channel navigation means for navigating one or more navigational axes.

[0028] Applicant also amends claim 36 to recite "Boolean operators". Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited "Boolean operators" or other subject matter of claim 36 as amended.

Independent Claim 38

[0029] As currently amended, independent claim 38 recites in part:
instructions to cycle through playing the television programs on the list when a user uses a navigation controller for changing television channels that, in turn, navigates along one of the navigational axes wherein the television programs comprise television programs selected from a group consisting of on-demand programs and currently broadcast programs.

[0030] Applicant also amends claim 38 to recite "Boolean operators". Applicant submits that the Kikinis reference does not provide evidence sufficient to disclose the recited "Boolean operators" or other subject matter of claim 38 as amended. Applicant also amends claim 38 to recite subject matter of dependent claim 39, which is now canceled.

35 USC § 103 Claim Rejections

[0031] Claims 6, 7 and 21 are rejected under 35 U.S.C. §103(a) for obviousness over Kikinis in view of U.S. Patent Application Publication No. 2004/0117831 to Ellis et al. (hereinafter, "Ellis") (*Office Action* p.12).

[0032] Claims 25 and 39 are rejected under 35 U.S.C. §103(a) for obviousness over Kikinis in view of U.S. Patent Application Publication No. 2003/0165324 to O'Connor et al. (hereinafter, "O'Connor") (*Office Action* p.13).

[0033] **Claims 6, 7, 21, 25 and 39** are rejected under 35 U.S.C. §103(a), claims 6, 7 and 21 as being obvious over a combination of Kikinis and Ellis, and claims 25 and 39 as being obvious over a combination of Kikinis and O'Connor. As mentioned, claim 39 is now canceled. Applicant notes that none of claims 6, 7, 21 and 25 are independent claims, and that each of these claims ultimately depends from one of independent claims 1, 18 or 38. Applicant further notes that it is axiomatic that any dependent claims which depend from an allowable base claim are also allowable, and therefore the Applicant does not believe that it is necessary to present arguments in favor of claims 6, 7, 21, and 25 as these claims should be

allowable for at least the reasons discussed above in response to rejection of their respective independent base claims, as well as for their own recited features which are neither shown nor supported by the cited reference. Applicant further notes that neither Ellis and/or O'Connor cure the deficiencies discussed above in response to the §102 rejections of the independent base claims. Accordingly, Applicant requests that the §103 rejections be withdrawn and that claims 6, 7, 21, and 25.

Dependent Claims

[0034] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant submits that the Office withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0035] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Office is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

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